

United States District Court

DISTRICT OF Massachusetts

UNITED STATES OF AMERICA

v.

Silvio Ortega-Herrera

10 Soden Street, Cambridge, MA
(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 2005-M-0426-RBC

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 23, 2005 in Middlesex county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)

being an alien and having been deported from the United States, was found in the United States without having received the express consent of the United States Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States.

in violation of Title 8 United States Code, Section(s) 1326(a) and (b).

I further state that I am a(n) ICE Special Agent and that this complaint is based on the following
Official Title

facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

03-14-2005

Date

at

Boston, Massachusetts

City and State

Robert B. Collings
United States Magistrate Judge

Name & Title of Judicial Officer

JOHN ROBERT B. COLLINGS
UNITED STATES MAGISTRATE JUDGE
United States District Court

San Jose Moakley United States Courthouse
100 Courthouse Way, Suite 6420
Boston, Massachusetts 02210

Signature of Judicial Officer

AFFIDAVIT

I, John H. Coleman, being duly sworn, do hereby depose and state as follows:

1. I am a Special Agent employed by the United States Bureau of Immigration and Customs Enforcement ("ICE"), and have been so employed by ICE, and the United States Customs Service for approximately 14 years. My duties include the detection and apprehension of aliens who are in the United States unlawfully.
2. This affidavit is based on my personal knowledge, information provided to me by other law enforcement officers and agents of this Service, as well as information provided by an anonymous individual. This affidavit is not intended to set forth all of the information that I and other law enforcement personnel have learned during this investigation, but is submitted in support of a criminal complaint.
3. I seek a criminal complaint charging SILVIO ORTEGA-HERRERA with unlawful reentry of a deported alien, in violation of Title 18, United States Code, Sections 1326(a) and (b) (2).
4. On February 16, 2005, ICE Supervisory Special Agent Kevin Jarvis ("SA Jarvis") received a telephone call from an

anonymous individual who stated that an individual named "BEDOYA" was living at 10 Soden Street, Cambridge, MA, and was dealing drugs at that location. The anonymous caller stated "BEDOYA" was previously deported from the United States because of a prior drug conviction and had since returned and was residing at 10 Soden Street, Cambridge, MA.

5. Further investigation revealed that "BEDOYA" was actually SILVIO ORTEGA-HERRERA, a native and citizen of Colombia. A review of ORTEGA-HERRERA's Alien File revealed that he was deported on November 8, 2001, after being convicted of distribution of cocaine in Roxbury District Court.

6. On February 23, 2005, at 07:30 a.m., ICE agents, along with a Cambridge Police detective, went to 10 Soden Street, Apartment G-2, Cambridge, MA, and placed ORTEGA-HERRERA under arrest. At the time of his arrest, ORTEGA-HERRERA consented to a search of his apartment. Inside his apartment agents found two Colombian passports in the name of Francisco Jiminez, a Massachusetts worker identification card in the name of Francisco Jiminez, two counterfeit Resident Alien cards in the names of Francisco Jiminez and Hector M. LOPEZ, and a rental agreement under the name Leon

BEDOYA. After being advised of his Miranda rights, ORTEGA-HERRERA admitted that all of the documents belonged to him.

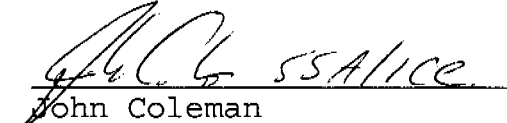
7. As part of ICE processing, agents fingerprinted ORTEGA-HERRERA and placed his fingerprints on a ten-print card.

8. On February 25, 2005, SA Paul Jordan submitted a request for fingerprint comparison to the FBI. An FBI fingerprint analyst compared the right index fingerprint from the November 8, 2001, Warrant of Deportation, to the right index fingerprint from the ten-print card and determined that both fingerprints came from the same person.


9. I have reviewed ORTEGA-HERRERA's Alien File and there is no indication in ORTEGA-HERRERA's file that he has received the express consent of the United States Attorney General prior to March 1, 2003, or the express consent of the Secretary of the Department of Homeland Security since that date, to reapply for admission to the United States. I know from my experience with ICE that if such an application was sought or granted, it would be reflected in ORTEGA-HERRERA's Alien File.

10. Based on the foregoing, I have probable cause to believe that ORTEGA-HERRERA, being a previously deported alien, has returned to the United States without the express

permission of the United States Attorney General or the Director of Homeland Security to reapply for admission to this country, in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).


John Coleman
Senior Special Agent
U.S. Immigration and Customs
Enforcement

Sworn and subscribed to before me this 14th day of March, 2005.


ROBERT B. COLLINGS
U.S. Magistrate Judge

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: _____ Category No. II Investigating Agency ICE

City Cambridge Related Case Information:

County Middlesex Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant X
Magistrate Judge Case Number _____
Search Warrant Case Number _____
R 20/R 40 from District of _____

Defendant Information:

Defendant Name Silvio Ortega-Herrera Juvenile ☐ Yes ☒ No

Alias Name Eladio Herrera, Oscar Diaz, Silvio Ortega

Address 10 Soden Street, Cambridge, MA

Birth date: 1969 SS#: _____ Sex: M Race: Hispanic Nationality: Colombia

Defense Counsel if known: _____ Address: _____

Bar Number: _____

U.S. Attorney Information:

AUSA William H. Connolly Bar Number if applicable 634501

Interpreter: ☒ Yes ☐ No List language and/or dialect: Spanish

Matter to be SEALED: ☐ Yes ☒ No

☒ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date: _____

☐ Already in Federal Custody as _____ in _____
☐ Already in State Custody _____ ☐ Serving Sentence ☐ Awaiting Trial
☐ On Pretrial Release: Ordered by _____ on _____

Charging Document: ☒ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: 3/14/05 Signature of AUSA: William H. Connolly

District Court Case Number (To be filled in by deputy) _____

Name of Defendant Silvio Ortega Herrera

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>8 U.S.C. § 1326(a)</u>	<u>Illegal Reentry of Deported Alien</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

District Court Case Number (To be filled in by deputy) _____

Name of Defendant Silvio Ortega Herrera

JS 45.wpd - 3/13/02